

CLERK'S OFFICE U.S. DIST. COURT  
AT ROANOKE, VA  
FILED  
MAY 04 2006  
JOHN F. CORCORAN, CLERK  
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**Plaintiff,**

**v.**

**SKR RESOURCES, INC., and  
CHRISTOPHER COREY,**

**Defendants.**

**Civil Action No. 5:04CV00113**

## **ORDER ADOPTING REPORT AND RECOMMENDATION**

**By: Samuel G. Wilson**  
**United States District Judge**

<sup>1</sup>On April 7, 2006, Corey filed a motion for reconsideration of Judge Crigler's order denying his motion to compel. Corey claimed that he did not receive notice of the March 28 hearing. In his motion, Corey does not mention Judge Crigler's Report and Recommendation; however, to the extent the motion was meant as an objection to Judge Crigler's Report, the court is not persuaded. Court records indicate that a notice of the hearing was sent to Corey at his Kansas address. Thus, the court is not persuaded by Corey's bald assertion that he did not receive notice of the hearing. Moreover, the decision to strike Corey's defenses is not based on his failure to attend that one hearing; rather, the sanction is a response to Corey's course of obstructive behavior.

Melnor essentially claims that SKR and Corey accepted over \$400,000 in merchandise in exchange for services they never intended to provide. However, the record reflects a pattern of behavior on the part of the defendants seemingly aimed at preventing the court from ever reaching the merits of that claim. Federal Rule of Civil Procedure 37(b) authorizes the court to strike a party's defenses should he fail to cooperate in discovery. The record shows that Corey has obstructed the course of discovery by preventing the court from setting and completing essential hearings and by attempting to excuse his behavior by incredibly asserting that he has not received the court's notices. The court finds that striking Corey's defenses and moving forward to the issue of damages is the only way the court can advance this case toward its ultimate resolution. The court is satisfied that any lesser sanction would only enable further delays by Corey. Accordingly, the court **ADOPTS** Judge Crigler's Report and Recommendation in its entirety and hereby **STRIKES** Corey's defenses.

**ENTER:** This 4th day of May, 2006.



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UNITED STATES DISTRICT JUDGE